

Adopted	Rejected
---------	----------

## COMMITTEE REPORT

YES:	7
NO:	5

### MR. SPEAKER:

*Your Committee on Elections and Apportionment, to which was referred House Bill 1439, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1       Page 1, line 3, delete "UPON PASSAGE]:" and insert "JULY 1,
- 2       2005]:".
- 3       Page 1, delete lines 5 through 17, begin a new line block indented
- 4       and insert:
- 5       **"(1) The document shows the name of the individual to whom**
- 6       **the document was issued, and the name conforms to the name**
- 7       **in the individual's voter registration record.**
- 8       **(2) The document shows a photograph of the individual to**
- 9       **whom the document was issued.**
- 10       **(3) The document includes an expiration date, and the**
- 11       **document:**
- 12       **(A) is not expired; or**
- 13       **(B) expired after the date of the most recent general**
- 14       **election.**
- 15       **(4) The document was issued by the United States or the state**

1           **of Indiana.**

2           SECTION 2. IC 3-10-1-7.2 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2005]: Sec. 7.2. (a) A voter who desires to vote an official  
5 ballot at a primary election shall provide proof of identification.

6           (b) Before the voter proceeds to vote in a primary election, a  
7 member of the precinct election board shall ask the voter to  
8 provide proof of identification. The voter must produce the proof  
9 of identification before being permitted to sign the poll list.

10          (c) If:

11           (1) the voter is unable or declines to present the proof of  
12 identification; or

13           (2) a member of the precinct election board determines that  
14 the proof of identification presented by the voter does not  
15 qualify as proof of identification under IC 3-5-2-40.4;

16 a member of the precinct election board shall challenge the voter  
17 as prescribed by IC 3-11-8.

18          (d) If the voter executes a challenged voter's affidavit under  
19 section 9 of this chapter or IC 3-11-8-22, the voter may:

20           (1) sign the poll list; and

21           (2) receive a provisional ballot.

22          SECTION 3. IC 3-11-8-25 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) A voter who  
24 desires to vote an official ballot at an election shall provide proof of  
25 identification.

26          (b) Before the voter proceeds to vote in the election, a member  
27 of the precinct election board shall ask the voter to provide proof  
28 of identification. The voter shall produce the proof of identification  
29 before being permitted to sign the poll list.

30          (c) If:

31           (1) the voter is unable or declines to present the proof of  
32 identification; or

33           (2) a member of the precinct election board determines that  
34 the proof of identification provided by the voter does not  
35 qualify as proof of identification under IC 3-5-2-40.4;

36 a member of the precinct election board shall challenge the voter  
37 as prescribed by this chapter.

38          (d) If the voter executes a challenged voter's affidavit under

section 22 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

~~(a)~~ (e) After a voter has passed the challengers or has been sworn in, the voter shall be ~~admitted to the polls. Upon entering the polls,~~ **instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed.** The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) The voter's current residence address.

~~(b)~~ (f) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) ask the voter to provide the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

~~(c) This subsection applies after December 31, 2003.~~

(g) The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 or IC 3-11-3-18 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present, **in addition to the proof of identification required under subsection (b),** a piece of identification described in subsection ~~(d)~~ (h) to the poll clerk.

~~(d) This subsection applies after December 31, 2003.~~

(h) As required by 42 U.S.C. 15483, **in addition to the proof of identification required under subsection (b),** a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

(1) a current and valid photo identification; or

(2) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

~~(e)~~ This subsection applies after December 31, 2003.

(i) If a voter presents a document under subsection ~~(d)~~, (h), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

~~(f)~~ This subsection applies after December 31, 2003.

(j) If a voter required to present documentation under subsection ~~(d)~~ (H) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

~~(g)~~ This subsection applies after December 31, 2003.

(k) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

~~(h)~~ (l) This subsection does not apply to a precinct in a county with a computerized registration system whose inspector was:

- (1) furnished with a list certified under IC 3-7-29; and
- (2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.

In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

~~(i)~~ (m) If, in a precinct governed by subsection ~~(h)~~, (l):

- (1) the poll clerk does not execute a challenger's affidavit; or
- (2) the voter executes a challenged voter's affidavit under section 22 of this chapter or had executed the affidavit before signing the poll list;

1 the voter may then vote.

2 ~~(j)~~ **(n)** This section expires January 1, 2006.

3 SECTION 4. IC 3-11-8-25.1 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.1. (a) This section  
5 applies after December 31, 2005.

6 **(b) A voter who desires to vote an official ballot at an election**  
7 **shall provide proof of identification.**

8 **(c) Before the voter proceeds to vote in the election, a member**  
9 **of the precinct election board shall ask the voter to provide proof**  
10 **of identification. The voter shall produce the proof of identification**  
11 **before being permitted to sign the poll list.**

12 **(d) If:**

13 **(1) the voter is unable or declines to present the proof of**  
14 **identification; or**

15 **(2) a member of the precinct election board determines that**  
16 **the proof of identification provided by the voter does not**  
17 **qualify as proof of identification under IC 3-5-2-40.4;**

18 **a member of the precinct election board shall challenge the voter**  
19 **as prescribed by this chapter.**

20 **(e) If the voter executes a challenged voter's affidavit under**  
21 **section 22 of this chapter, the voter may:**

22 **(1) sign the poll list; and**

23 **(2) receive a provisional ballot.**

24 ~~(b)~~ **(f)** After a voter has passed the challengers or has been sworn in,  
25 the voter shall be ~~admitted to the polls. Upon entering the polls,~~  
26 **instructed by a member of the precinct election board to proceed**  
27 **to the location where the poll clerks are stationed.** The voter shall  
28 announce the voter's name to the poll clerks or assistant poll clerks. A  
29 poll clerk, an assistant poll clerk, or a member of the precinct election  
30 board shall require the voter to write the following on the poll list:

31 **(1) The voter's name.**

32 **(2) Except as provided in subsection ~~(f)~~, (k), the voter's current**  
33 **residence address.**

34 ~~(c)~~ **(g)** The poll clerk, an assistant poll clerk, or a member of the  
35 precinct election board shall:

36 **(1) ask the voter to provide or update the voter's voter**  
37 **identification number;**

38 **(2) tell the voter the number the voter may use as a voter**

1 identification number; and

2 (3) explain to the voter that the voter is not required to provide or  
3 update a voter identification number at the polls.

4 **(h) The poll clerk, an assistant poll clerk, or a member of the**  
5 **precinct election board shall ask the voter to provide proof of**  
6 **identification.**

7 ~~(d)~~ (i) In case of doubt concerning a voter's identity, the precinct  
8 election board shall compare the voter's signature with the signature on  
9 the affidavit of registration or any certified copy of the signature  
10 provided under IC 3-7-29. If the board determines that the voter's  
11 signature is authentic, the voter may then vote. If either poll clerk  
12 doubts the voter's identity following comparison of the signatures, the  
13 poll clerk shall challenge the voter in the manner prescribed by section  
14 21 of this chapter.

15 ~~(e)~~ (j) If, in a precinct governed by subsection ~~(e)~~: (g):

16 (1) the poll clerk does not execute a challenger's affidavit; or

17 (2) the voter executes a challenged voter's affidavit under section  
18 22 of this chapter or executed the affidavit before signing the poll  
19 list;

20 the voter may then vote.

21 ~~(f)~~ (k) Each line on a poll list sheet provided to take a voter's current  
22 address must include a box under the heading "Address Unchanged" so  
23 that a voter whose residence address shown on the poll list is the voter's  
24 current residence address may check the box instead of writing the  
25 voter's current residence address on the poll list.

26 SECTION 5. IC 3-11-8-25.2 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.2. (a) This section  
28 applies after December 31, 2005.

29 (b) The poll clerk or assistant poll clerk shall examine the list  
30 provided under IC 3-7-29-1 to determine if the county election board  
31 has indicated that the voter is required to provide additional personal  
32 identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting  
33 in person. If the list (or a certification concerning absentee voters under  
34 IC 3-11-10-12) indicates that the voter is required to present this  
35 identification before voting in person, the poll clerk shall advise the  
36 voter that the voter must present, **in addition to the proof of**  
37 **identification required by section 25.1(b) of this chapter**, a piece of  
38 identification described in subsection (c) to the poll clerk.

(c) As required by 42 U.S.C. 15483, **and in addition to the proof of identification required by section 25.1(b) of this chapter**, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

(1) A current and valid photo identification.

(2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(d) If a voter presents a document under subsection (c), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(e) If a voter required to present documentation under subsection (c) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(f) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

SECTION 6. IC 3-11-8-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.5. If an individual signs the individual's name and either:

(1) signs the individual's address; or

(2) after December 31, 2005, checks the "Address Unchanged" box;

on the poll list under section 25 **or 25.1** of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may not be permitted to reenter the polls to cast a ballot at the election.

SECTION 7. IC 3-11-8-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. **(a) This section does not apply to a list kept by a poll clerk under section 10.5 of this chapter.**

**(b)** A precinct election board may not keep a poll list other than the poll list required by section 25 **or 25.1** of this chapter.

SECTION 8. IC 3-11-10-1.2 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2005]: **Sec. 1.2. An absentee voter is not  
 required to provide proof of identification when:**

**(1) mailing, delivering, or transmitting an absentee ballot  
 under section 1 of this chapter; or**

**(2) voting before an absentee board under this chapter.**

SECTION 9. IC 3-11-10-22 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. **(a)** If an absentee  
 ballot is challenged under section 21 of this chapter, the absentee  
 voter's application for an absentee ballot shall be considered as the  
 affidavit required to be made by a voter when challenged at the polls  
 while voting in person. ~~In all other respects~~

**(b) Except as provided in subsection (c), the challenge procedure  
 under this section is the same as though the ballot was cast by the  
 voter in person.**

**(c) An absentee voter is not required to provide proof of  
 identification.**

**(d)** If a proper affidavit is made that would entitle the absentee voter  
 to vote if the absentee voter had personally appeared, then the absentee  
 ballot shall be placed in the ballot box.

SECTION 10. IC 3-11.5-4-16 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. **(a)** If an absentee  
 ballot is challenged under section 15 of this chapter, the absentee  
 voter's application for an absentee ballot shall be considered as the  
 affidavit required to be made by a voter when challenged at the polls  
 while voting in person. ~~In all other respects,~~

**(b) Except as provided in subsection (c), the challenge procedure  
 under this section is the same as though the ballot was cast by the  
 voter in person.**

**(c) An absentee voter is not required to provide proof of  
 identification.**

~~(b)~~ **(d)** If a proper affidavit by a qualified person in the form  
 required by IC 3-11-8-22 is made that would entitle the absentee voter  
 to vote if the absentee voter had personally appeared, the couriers shall  
 return the affidavit to the county election board in the same envelope  
 as the certificate returned under section 9 of this chapter.

~~(c)~~ **(e)** The absentee ballot cast by the challenged voter shall be  
 counted if the county election board makes the findings required under



1 section 11 of this chapter.

2 SECTION 11. IC 3-11.7-2-3 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The precinct  
4 election board shall affix to the envelope the challenger's affidavit and  
5 the affidavit executed by the provisional voter under section 1 of this  
6 chapter.

7 **(b) The form of the envelope is prescribed under IC 3-6-4.1-14.**  
8 **The envelope must permit a member of a precinct election board**  
9 **to indicate whether the voter has been issued a provisional ballot**  
10 **as the result of a challenge based on the voter's inability or**  
11 **declination to provide proof of identification.**

12 ~~(b)~~ (c) Except as provided in subsection ~~(c)~~ (d) and in accordance  
13 with 42 U.S.C. 15482, the precinct election board shall securely keep  
14 the sealed envelope, along with the affidavits affixed to the envelope,  
15 in another envelope or container marked "Provisional Ballots".

16 ~~(c)~~ (d) This subsection applies to the sealed envelope and the  
17 affidavits affixed to the envelope of a provisional voter described in  
18 section 1(a)(3) of this chapter. As required by 42 U.S.C. 15482, the  
19 precinct election board shall keep the sealed envelope or container  
20 separate from the envelope or container described in subsection ~~(b)~~ (c).  
21 The envelope or container described in this subsection must be labeled  
22 "Provisional Ballots Issued After Regular Poll Closing Hours".

23 SECTION 12. IC 3-11.7-5-2 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as  
25 provided in section 5 of this chapter, if the county election board  
26 determines that all the following apply, a provisional ballot is valid and  
27 shall be counted under this chapter:

28 (1) The affidavit executed by the provisional voter under  
29 IC 3-11.7-2-1 is properly executed.

30 (2) The provisional voter is a qualified voter of the precinct **and**  
31 **has provided proof of identification, if required, under**  
32 **IC 3-10-1 or IC 3-11-8.**

33 (3) Based on all the information available to the county election  
34 board, including:

35 (A) information provided by the provisional voter;

36 (B) information contained in the county's voter registration  
37 records; and

38 (C) information contained in the statewide voter registration

1 file;  
 2 the provisional voter registered to vote at a registration agency  
 3 under this article on a date within the registration period.

4 (b) If the provisional voter has provided information regarding the  
 5 registration agency where the provisional voter registered to vote, the  
 6 board shall promptly make an inquiry to the agency regarding the  
 7 alleged registration. The agency shall respond to the board not later  
 8 than noon of the first Friday after the election, indicating whether the  
 9 agency's records contain any information regarding the registration. If  
 10 the agency does not respond to the board's inquiry, or if the agency  
 11 responds that the agency has no record of the alleged registration, the  
 12 board shall reject the provisional ballot. The board shall endorse the  
 13 ballot with the word "Rejected" and document on the ballot the inquiry  
 14 and response, if any, by the agency.

15 (c) ~~This subsection applies after December 31, 2003.~~ Except as  
 16 provided in section 5 of this chapter, a provisional ballot cast by a voter  
 17 described in IC 3-11.7-2-1(b) is valid and shall be counted if the county  
 18 election board determines under this article that the voter filed the  
 19 documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with  
 20 the county voter registration office not later than the closing of the polls  
 21 on election day.

22 SECTION 13. IC 3-11.7-5-2.5 IS ADDED TO THE INDIANA  
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 24 [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. (a) A voter who:**

25 **(1) was challenged under IC 3-10-1 or IC 3-11-8 as a result of**  
 26 **the voter's inability or declination to provide proof of**  
 27 **identification; and**

28 **(2) cast a provisional ballot;**  
 29 **may personally appear before the circuit court clerk or the county**  
 30 **election board not later than the deadline specified by section 1 of**  
 31 **this chapter for the county election board to determine whether to**  
 32 **count a provisional ballot.**

33 **(b) Except as provided in subsection (c) or (e), if the voter:**

34 **(1) provides proof of identification to the circuit court clerk or**  
 35 **county election board; and**

36 **(2) executes an affidavit before the clerk or board, in the form**  
 37 **prescribed by the commission, affirming under the penalties**  
 38 **of perjury that the voter is the same individual who:**

- 1           **(A) personally appeared before the precinct election board;**  
 2           **and**  
 3           **(B) cast the provisional ballot on election day;**  
 4       **the county election board shall find that the voter's provisional**  
 5       **ballot is valid and direct that the provisional ballot be opened**  
 6       **under section 4 of this chapter and processed in accordance with**  
 7       **this chapter.**
- 8           **(c) If the voter executes an affidavit before the circuit court**  
 9       **clerk or county election board, in the form prescribed by the**  
 10       **commission, affirming under the penalties of perjury that:**
- 11           **(1) the voter is the same individual who:**  
 12               **(A) personally appeared before the precinct election board;**  
 13               **and**  
 14               **(B) cast the provisional ballot on election day; and**  
 15           **(2) the voter:**  
 16               **(A) is:**  
 17                   **(i) indigent; and**  
 18                   **(ii) unable to obtain proof of identification without the**  
 19                   **payment of a fee; or**  
 20               **(B) has a religious objection to being photographed;**  
 21       **the county election board shall determine whether the voter has**  
 22       **been challenged for any reason other than the voter's inability or**  
 23       **declination to present proof of identification to the precinct election**  
 24       **board.**
- 25           **(d) If the county election board determines that the voter**  
 26       **described in subsection (c) has been challenged solely for the**  
 27       **inability or declination of the voter to provide proof of**  
 28       **identification, the county election board shall:**
- 29               **(1) find that the voter's provisional ballot is valid; and**  
 30               **(2) direct that the provisional ballot be:**  
 31                   **(A) opened under section 4 of this chapter; and**  
 32                   **(B) processed in accordance with this chapter.**
- 33           **(e) If the county election board determines that a voter**  
 34       **described in subsection (b) or (c) has been challenged for a cause**  
 35       **other than the voter's inability or declination to provide proof of**  
 36       **identification, the board shall:**
- 37               **(1) note on the envelope containing the provisional ballot that**  
 38               **the voter has complied with the proof of identification**

- 1 requirement; and
- 2 (2) proceed to determine the validity of the remaining
- 3 challenges set forth in the challenge affidavit before ruling on
- 4 the validity of the voter's provisional ballot.
- 5 (f) If a voter described by subsection (a) fails by the deadline for
- 6 counting provisional ballots referenced in subsection (a) to:
- 7 (1) appear before the county election board; and
- 8 (2) execute an affidavit in the manner prescribed by
- 9 subsection (b) or (c);
- 10 the county election board shall find that the voter's provisional
- 11 ballot is invalid.
- 12 SECTION 14. IC 3-11.7-5-3 IS AMENDED TO READ AS
- 13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) If the board
- 14 determines that the affidavit executed by the provisional voter has not
- 15 been properly executed, that the provisional voter is not a qualified
- 16 voter of the precinct, **that the voter failed to provide proof of**
- 17 **identification when required under IC 3-10-1 or IC 3-11-8**, or that
- 18 the provisional voter did not register to vote at a registration agency
- 19 under this article on a date within the registration period, the board shall
- 20 make the following findings:
- 21 (1) The provisional ballot is invalid.
- 22 (2) The provisional ballot may not be counted.
- 23 (3) The provisional ballot envelope containing the ballots cast by
- 24 the provisional voter may not be opened.
- 25 (b) If the county election board determines that a provisional ballot
- 26 is invalid, a notation shall be made on the provisional ballot envelope:

- 1 "Provisional ballot determined invalid".
- 2 Delete pages 2 through 6.
- 3 Renumber all SECTIONS consecutively.  
(Reference is to HB 1439 as introduced.)

**and when so amended that said bill do pass.**

---

Representative Thomas